

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
JAN 13 2004

OFFICE OF
MANAGING DIRECTOR

Ronald W. Cowan

Mr. Dennis J. Kelly
Post Office Box 41177
Washington, D.C. 20018

Re: Radio Stations WVAB(AM) and
WBVA (AM)
Fee Control No. 00000RROG-04-023

Dear Mr. Kelly:

This is in response to your request dated September 25, 2003 filed on behalf of Ronald Cowan, licensee of radio stations WVAB (AM) and WBVA (AM), for deferral of the fiscal year (FY) 2003 regulatory fees. Those fees, \$2,000.00 and \$1,625.00 respectively, were due on September 25, 2003. *See Public Notice, "Federal Communications Commission Extends Filing Deadline of FY 2003 Regulatory Fee,"* DA 03-2907, September 22, 2003.

You request that the deadline for FY 2003 regulatory fees for WVAB and WBVA be extended until March 24, 2004. In support, you state that the transmitter for both stations is on a tower located in the city of Virginia Beach, that Virginia Beach suffered from the effects of Hurricane Isabel, and that the cash that would have gone to pay the regulatory fees for FY 2003 is needed to cover the costs occasioned by the hurricane.

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose undue financial hardship upon a licensee. Thus the Commission decided to grant waivers, deferrals or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC 12759 (1995). See also, 47 C.F.R. §1.1166.

The Commission has held that petitioners should submit relevant information in support of requests for waivers, deferrals or reductions and that it would review the supporting documents and any additional information in our records to determine if the petitioner presents a compelling case of financial hardship. In the absence of sufficient evidence of hardship, the Commission will deny the petition *See Id.*, 9 FCC Rcd at 5345-46; 47 C.F.R. § 1.1166.

The Commission specified that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

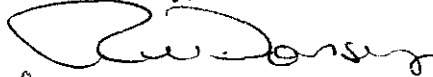
10 FCC Rcd at 12761-2762.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. Thus although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of appropriate documentation, you have failed to establish a compelling case of financial hardship. Therefore, your request for deferral of WVAB and WBVA's regulatory fees is dismissed. Payment of the FY 2003 regulatory fees in the amount of \$3,625.00 for the two stations is now due. The \$3,625.00 should be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. However, in view of your allegations of financial hardship, in lieu of payment, you may re-file WVAB and WBVA's request together with appropriate supporting documentation and a request to further defer payment of the fee, within 30 days from the date of this letter. A late payment penalty of 25 per cent will be assessed and due if the Commission does not receive either the full payment or a refiled request with supporting documentation on or before 30 days from the date of this letter.

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



for Mark A. Reger
Chief Financial Officer

Law Office of
DENNIS J. KELLY
Post Office Box 41177
Washington, DC 20018

MEMBER, DISTRICT OF COLUMBIA BAR ONLY;
PRACTICE LIMITED TO FEDERAL COURTS AND AGENCIES

TELEPHONE: 888-322-5291
202-293-2300

TELECOPIER: 410-626-1794
E-MAIL: dkellyfcclaw1@comcast.net

September 25, 2003

Honorable Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
Washington, DC 20554

Attention: Office of Managing Director
Regulatory Fee Staff

RE: WVAB(AM), Virginia Beach, VA
WBVA(AM), Bayside, VA

Dear Madame Secretary:

Please accept for filing on behalf of our client Ronald W. Cowan, Jr. an original and four copies of his "Petition to Defer FY 2003 Regulatory Fees" for stations WVAB(AM) and WBVA(AM).

Should additional information be desired in connection with the above matter, kindly communicate with this office.

Very truly yours,



Dennis J. Kelly

RECEIVED OCT 30 2003

RECEIVED

SEP 25 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

RECEIVED
SEP 25 2003
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Request of)
)
RONALD W. COWAN, JR.) FRN 0005-0219-02
WVAB(AM), Virginia Beach, VA) Facility ID #57611
WBVA(AM), Bayside, VA) Facility ID #84068
)
For Deferral of)
FY 2003 Regulatory Fees)

TO: Office of Managing Director
Regulatory Fee Staff

PETITION TO DEFER FY 2003 REGULATORY FEES

Ronald W. Cowan, Jr. (Cowan), licensee of Class D AM Broadcast Station WVAB, Virginia Beach, Virginia and Class C AM Broadcast Station WBVA, Bayside, Virginia, by his attorney, and pursuant to Section 1.1166(a-b) of the Commission's Rules, hereby respectfully requests a deferral of the fiscal year 2003 regulatory fees for WVAB and WBVA until March 25, 2004. In support whereof, the following is shown:

1. As required by Section 1.1166(b), we are filing an original and four copies of this request with the Office of the Secretary on or before the date that fiscal year 2003 regulatory fees are due.

2. The transmitter location for WVAB and WBVA is at the same tower in the city of Virginia Beach, Virginia. As

the FCC is well aware, Virginia Beach suffered from the effects of Hurricane Isabel, particularly on Thursday, September 18, 2003.

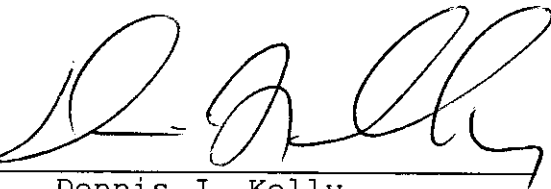
3. Given the serious nature of Hurricane Isabel, and the fact that the cash which would have otherwise gone to regulatory fees for fiscal year 2003 is needed to cover costs occasioned by Hurricane Isabel, Cowan asks that, due to the unexpected hardship caused by Hurricane Isabel, his 2003 regulatory fees for WVAB and WBVA be deferred for six months, as Section 1.1166(b) allows, until March 25, 2004.

4. The public interest, convenience and necessity would be well served by a grant of this Petition.

WHEREFORE, it is urged that this Petition **BE GRANTED**.

Respectfully submitted,

RONALD W. COWAN, JR.

By 

Dennis J. Kelly
His Attorney

LAW OFFICE OF DENNIS J. KELLY
Post Office Box 41177
Washington, DC 20018
Telephone: 202-293-2300

September 25, 2003

Tom Putnam

From: Tom Putnam
Sent: Monday, December 01, 2003 12:01 PM
To: 'Dennis J Kelly'
Subject: Your voice mail
Mr.. Kelly,

I am sorry that we missed each other last week. We need some additional information in order to properly respond to your request for a deferral of the FY 2003 regulatory fees for WVAB & WBVA.

The Commission has stated that it will waive, reduce, or defer regulatory fees in those instances where a petitioner presents a compelling case of financial hardship. See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), on recon, 10 FCC Rcd 12759 (1995). The Commission has stated that regulatees can establish financial hardship by submitting:

information such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information. 10 FCC Rcd at 12761-12762.

To support a claim of financial hardship, you need to provide us with such information. Please e-mail, fax, or send me the additional information.

Also; do you know if the FY 2003 fee payment has been made?

If you have any questions, please do not hesitate to contact me.

Thank you.

Tom Putnam
Accountant
Revenue & Receivables Operations Group
Phone 202-418-2992
Fax 202-418-2843
*** Non-Public: For Internal Use Only ***

Discussed with attorney
"needs more time"

ok to discuss w/
30 days to comply
per M. Bertman

Tom P.

12/2/2003